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Washington, DC 20005

In re Application of :  
FRAY, Rupert et al. :  
Application No.: 09/762,769 : DECISION ON  
PCT No.: PCT/GB99/02652 :  
Int. Filing Date: 12 August 1999 :  
Priority Date: 12 August 1998 : REQUEST  
Attorney's Docket No.: PM 276653 :  
For: EXPRESSION OF BACTERIAL : UNDER 37 CFR 1.42  
SIGNAL MOLECULES IN PLANTS :

This is a decision on applicants' "Renewed Submission Under 37 C.F.R. §1.42" filed 16 May 2000.

### BACKGROUND

On 12 August 1999, applicants filed international application PCT/GB99/02652, which claimed a priority date of 12 August 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 February 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 15 December 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 12 February 2001.

On 13 February 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a copy of the international application, the international preliminary examination report and a copy of the international search report with copies of the references cited therein.

On 14 March 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors and payment of the surcharge for late filing of oath or declaration were required. This Notification set a one month extendable period for reply.

On 14 August 2001, applicants submitted the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371," which was accompanied by, *inter alia*, a petition/fee for a four month extension of time, a Rule 63 declaration and a power of attorney for patent application and a Rule 63 declaration and power of attorney by legal representative.

On 16 November 2001, the Office dismissed applicants' request for status without prejudice.

On 16 May 2001, applicants filed the instant submission accompanied by a petition for a four month extension of time and payment of the fee for a four month extension.

### DISCUSSION

Under 37 CFR 1.42, the declaration must include the signature of the legal representative or the signature of all of the heirs (or if there is only one heir, the sole heir). The declaration is signed by Lesley A. Stewart as legal representative.

As previously discussed, 37 CFR 1.497(b)(2) requires the oath or declaration to list the mailing address of the legal representative. The 16 May 2002 submission of applicants is neither an oath nor a declaration.

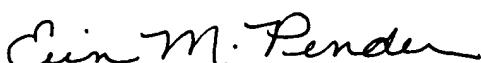
### CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a proper response within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

  
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